

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NUMBER: 499-737

DIVISION: D

J. ROBERT WOOLEY, AS
ACTING COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA
VERSUS
AMCARE HEALTH PLANS OF LOUISIANA, INC.

COPIED TRUE COPY

FILED

DEPUTY CLERK

**MOTION AND INCORPORATED MEMORANDUM REQUESTING APPROVAL OF
SETTLEMENT OF CLAIMS INVOLVING M. LEE PEARCE**

NOW INTO COURT through undersigned counsel comes J. Robert Wooley, Commissioner

of Insurance for the State of Louisiana in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc. In Liquidation ("AmCare-LA") through Marlon V. Harrison, Receiver for AmCare Health Plans of Louisiana, Inc. in Liquidation (the "Receiver") who respectfully represents that:

1.

AmCare Health Plans of Louisiana, Inc. was a health maintenance organization that was placed by order of this honorable Court in rehabilitation on October 27, 2002 and in liquidation on November 12, 2002, and the Receiver was appointed by the Court pursuant to those orders.

2.

The order of liquidation for AmCare La entered by this Court on November 12, 2002 authorized the Receiver, inter alia, to commence whatever legal actions were necessary, and to collect all sums and debts that were economically feasible to collect, to accomplish the liquidation of AmCare-LA.

3.

In furtherance of the order of liquidation in September, 2003, the Receiver filed an action against various directors and officers of AmCareCo, Inc., AmCare Health Plans of Louisiana, Inc. and various other persons and entities (the "AmCare D&O's"), including, but not limited to, M. Lee Pearce ("Pearce") in this Court, case number 499-737. This case, number 499-737, was later consolidated with other pending recovery actions and amended and restated as to the claims asserted.

4.

AmCare Health Plans of Texas, Inc. In Receivership ("Amcare-TX"), and AmCare Management, Inc. In Receivership ("AmCare-Mgt"), both of which are in receivership and under the supervision of the courts of the State of Texas, and AmCare Health Plans of Oklahoma, Inc. In Receivership ("AmCare-OK"), which is in receivership and under the supervision of the courts of the State of

Oklahoma, (all collectively referred to as the “AmCare entities”), intervened in case number 499,737 to join AmCare-LA in asserting claims against the AmCare D&O’s and Pearce.

5.

Pearce was a major investor in AmCareCo, second only to Health Net, Inc., and is alleged to have been a de facto officer and director of the AmCare entities at least from 1999 until 2002.

6.

In connection with the proposed settlement of the claims asserted on behalf of AmCare-LA and the AmCare entities against Pearce, Pearce has denied the allegations made in the pending actions but is willing to enter into a settlement agreement to avoid the time and expense of protracted litigation involving complex managed care, business and accounting transactions.

7.

In connection with the proposed settlement, Pearce and his related entities have agreed to pay AmCare-LA and the AmCare entities, collectively, the full and true sum of Eight Hundred Thirty Three Thousand (\$833,000.00) Dollars, a portion of which is to be paid to AmCare-LA in accordance with the terms of the Receiver’s Agreement previously approved by this Court. A copy of the proposed settlement agreement is attached hereto and marked as **Exhibit A**.

8.

The Receiver believes that the proposed settlement is in the best interest of the AmCare-LA estate, will efficiently marshal the property and assets of the AmCare-LA estate, and will further the goals identified in the order of liquidation entered by this Court in this matter.

9.

The Receiver further requests notice of this motion and order and the Court’s ruling be given by posting a copy of this motion and order and the Court’s ruling on the Louisiana Department of Insurance website at www.ldi.la.gov ; Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana; Receivership Pleadings and that such be deemed sufficient notice to all interested persons or entities.

10.

The Receiver requests that the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of AmCare-LA against Pearce with prejudice and there is no just


reason for delay since Pearce will no longer be a party to the recovery actions in accordance with Louisiana Code of Civil Procedure article 1915.

WHEREFORE, Marlon V. Harrison, Receiver for AmCare Health Plans of Louisiana, Inc. in Liquidation, prays that this motion be deemed good and sufficient and that this honorable Court approve the proposed settlement with Pearce and authorize the Receiver to enter into the proposed agreement with the Pearce and the AmCare entities and to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver; that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at www.ldb.state.la.us; Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana; Receivership Pleadings and that such be deemed sufficient notice to all interested persons or entities, and the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of AmCare-LA against Pearce with prejudice and there is no just reason for delay since Pearce will no longer be a party to the recovery actions in accordance with Louisiana Code of Civil Procedure article 1915, and for all other appropriate relief.

RESPECTFULLY SUBMITTED,

BY ATTORNEYS FOR
J. Robert Wooley
Commissioner of Insurance
for the State of Louisiana
in his capacity as Liquidator of
AmCare Health Plans of Louisiana, Inc.

Buser & Associates, APLC

BY: 
Sue Buser #18151
1518 Highway 30 East
Gonzales, LA 70737
Telephone: (225) 644-6100
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NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NUMBER: 499-737

DIVISION: D

J. ROBERT WOOLEY, AS
ACTING COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA
VERSUS
AMCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: _____

DEPUTY CLERK

ORDER

Considering the foregoing Motion and Incorporated Memorandum Requesting Approval of Settlement of the Claims of M. Lee Pearce filed on behalf of AmCare Health Plans of Louisiana, Inc. In Liquidation, and the Court finding that the parties are entitled to the relief granted:

IT IS ORDERED, ADJUDGED AND DECREED that the Motion Requesting Approval of Settlement of the Claims of M. Lee Pearce be and hereby is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the proposed settlement with M. Lee Pearce be and hereby is APPROVED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Receiver for AmCare Health Plans of Louisiana, Inc. In Liquidation be and hereby is authorized to enter into the proposed settlement agreement with M. Lee Pearce, and AmCare Health Plans of Texas, Inc. In Receivership, AmCare Management, Inc. In Receivership, and AmCare Health Plans of Oklahoma, Inc. In Receivership, and to sign such documents, to take such actions as may be required to accomplish same, and to implement same, in the sole discretion of the Receiver.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at www.lda.la.gov ; Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana; Receivership Pleadings and that such notice shall be deemed sufficient notice to all interested persons or entities.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the motion of the Receiver to certify this judgment as a final judgment pursuant to Louisiana Code of Civil Procedure

article 1915 be and hereby is granted and this judgment is certified as a final judgment for purposes of appeal.

The Court, in accordance with Louisiana Civil Code Article 1915, designates this as a final judgment by the Court after an express determination that there is no just reason for delay since the judgment rendered by the Court herein dismisses all claims in the recovery actions as to M. Lee Pearce with prejudice.

THUS DONE AND SIGNED this _____ day of _____, 2005 at
Baton Rouge, Louisiana.

JUDGE, NINETEENTH JUDICIAL DISTRICT COURT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing document has been forwarded via First Class Mail, postage prepaid and properly addressed, to the following:

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Robert W. Barton
Taylor Porter Brooks & Philips
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Baton Rouge, LA 70821-2471

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& Burns, LLC
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Baton Rouge, LA 70884-3260

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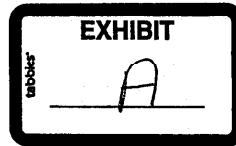
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Austin, TX 78707

Douglas Dodds
Amy Clark-Meachum
Pat Lochridge
McGinnis Lochridge & Kilgore
1300 Capital Center
919 Congress Avenue
Austin, TX 78701

on this _____ day of _____, 2005.





SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (hereinafter "Settlement Agreement" or "Agreement") is made and entered into by and among (1) J. Robert Wooley, as Commissioner of Insurance for the State of Louisiana, as Liquidator for AmCare Health Plans of Louisiana, Inc., through his appointed Receiver, Marion V. Harrison; (2) Kim Holland, Insurance Commissioner for the State of Oklahoma, as Receiver for AmCare Health Plans of Oklahoma, Inc.; (3) Jean Johnson, Special Deputy Receiver of AmCare Health Plans of Texas, Inc., and (4) M. Lee Pearce, all as more fully described in Paragraph I(A) of the Definitions Section below (collectively the "Parties"), as follows:

I. DEFINITIONS

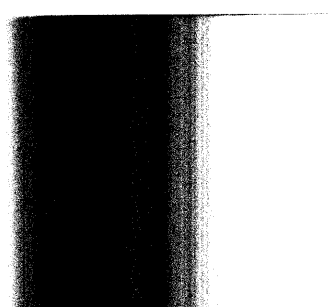
The following terms, as used in this Settlement Agreement, shall have the definitions set forth below. Other specific terms may be defined elsewhere in the Agreement.

A. Parties

"AmCareco" shall mean AmCareco, Inc., a Delaware corporation, together with any and all past or present subsidiaries, affiliates, officers, directors, servants, agents, employees, shareholders, insurers and attorneys, each represented for purposes of this Settlement Agreement by AmCareco, Inc., to the fullest extent allowed by law.

"AmCare-LA" shall mean AmCare Health Plans of Louisiana, Inc., a Louisiana corporation and wholly owned subsidiary of AmCareco.

"AmCare-LA Creditors" shall mean all Common Creditors of AmCare-LA, including health care providers and hospitals providing services to beneficiaries of AmCare-LA health plans as well as the beneficiaries themselves who have not and do not assert any viable, personal direct claims.



"AmCare-OK" shall mean AmCare Health Plans of Oklahoma, Inc., an Oklahoma corporation and wholly owned subsidiary of AmCareco.

"AmCare-OK Creditors" shall mean all Common Creditors of AmCare-OK, including health care providers and hospitals providing services to beneficiaries of AmCare-OK health plans as well as the beneficiaries themselves who have not and do not assert any viable, personal claims.

"AmCare-TX" shall mean AmCare Health Plans of Texas, Inc., a Texas corporation and wholly owned subsidiary of AmCareco.

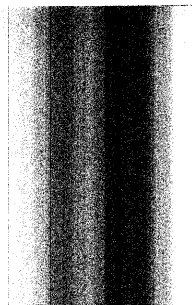
"AmCare-TX Creditors" shall mean all Common Creditors of AmCare-TX, including health care providers and hospitals providing services to beneficiaries of AmCare-TX health plans as well as the beneficiaries themselves whom have not and do not assert any viable, personal claims.

"AmCare Management" shall mean AmCare Management, Inc., a Texas corporation and wholly owned subsidiary of AmCareco.

"AmCare Management Creditors" shall mean all Common Creditors of AmCare Management.

"Common Creditors" shall mean a creditor whose claims are identical in nature to other creditors whom a receiver, by operation of law, has the legal right to pursue on his, her, or its behalf.

"Louisiana Receiver" shall mean J. Robert Wooley, as Commissioner of Insurance for the State of Louisiana, as Liquidator for AmCare-LA and representative and/or assignee of the AmCare-LA Creditors, through his appointed Receiver, Marlon V. Harrison, together with any and all past or present agents, representatives, servants, and employees, each represented for



purposes of this Settlement Agreement by J. Robert Wooley, as Commissioner of Insurance for the State of Louisiana, as Liquidator for AmCare-LA and representative and/or assignee of the AmCare-LA Creditors, to the fullest extent allowed by law.

"Oklahoma Receiver" shall mean Kim Holland, Insurance Commissioner for the State of Oklahoma, as Receiver for AmCare-OK and representative and/or assignee of the AmCare-OK Creditors, together with any and all past or present agents, representatives, and employees each represented for purposes of this Settlement Agreement by Kim Holland, Insurance Commissioner for the State of Oklahoma, as Receiver for AmCare-OK and representative and/or assignee of the AmCare-OK Creditors, to the fullest extent allowed by law.

"Pearce" shall mean the M. Lee Pearce Foundation, Luxor Holdings II, LLC, and M. Lee Pearce individually, as well as in his alleged capacities as a de-facto director, de-facto officer, member and/or shareholder of 1) AmCareco and/or its subsidiaries, 2) Luxor Holdings II, LLC or any other Luxor entity, or 3) The Dr. M. Lee Pearce Foundation, together with any and all past or present agents, heirs, successors, assigns, representatives, employees and attorneys (but not including the law firm of Proskauer Rose or any of its current or former partners, shareholders or employees), each represented for purposes of this Settlement Agreement by M. Lee Pearce, to the fullest extent allowed by law.

"Texas Receiver" shall mean Special Deputy Receiver Jean Johnson, duly appointed as such by Jose Montemayor, Insurance Commissioner for the State of Texas, as Receiver for AmCare-TX and AmCare Management and representative and assignee of the AmCare-TX Creditors and AmCare Management Creditors, together with any and all past or present agents, representatives, servants, and employees each represented for purposes of this Settlement Agreement by Special Deputy Receiver Jean Johnson, duly appointed as such by Jose

Montemayor, Insurance Commissioner for the State of Texas, as Receiver for AmCare-TX and AmCare Management and representative and assignee of the AmCare-TX Creditors and AmCare Management Creditors, to the fullest extent allowed by law.

B. Pending Lawsuits

“Texas Case” shall mean Cause No GN 303897, *Jean Johnson, Special Deputy Receiver of AmCare Health Plans of Texas, Inc. et al v Pricewaterhouse Coopers, LLP, et al.*, in the 250th Judicial District Court of Travis County, Texas.

“Louisiana Case” shall mean Cause No 499,737, Section D, *J. Robert Wooley, as Commissioner of Insurance for the State of Louisiana v Thomas S. Lucksinger et al.*, in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana, which has been consolidated with the following two actions: 1) Cause No 509,297, Section D, *J Robert Wooley as Commissioner of Insurance for the State of Louisiana v Foundation Health Corporation et al.*, in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana; and 2) Cause No. 512,366, Section D, *J. Robert Wooley, as Commissioner of Insurance for the State of Louisiana, as Liquidator for AmCare Health Plans of Louisiana, Inc v. PricewaterhouseCoopers*, in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana.

C. Other Terms

“Action” shall mean any action, lawsuit, cause of action, arbitration or other proceeding of any kind.

“AmCare HMOs” shall mean AmCare-TX, AmCare-OK and AmCare-LA.

“Claims” shall mean all existing, known, and unknown claims, demands, causes of action and counterclaims, pending or threatened, asserted or unasserted, direct or indirect, personal or received by assignment or other operation of law, presently existing or which might accrue in the future, which have been or which could have been asserted by Plaintiffs for all existing, known,

and unknown damages and remedies arising out of or related to the Incident and occurring before all Parties execute this Agreement, including without limitation claims that have been brought or that could have been brought by or on behalf of Plaintiffs (a) in the Texas Case or Louisiana Case, or (b) in any court, tribunal or forum, in this or any other jurisdiction, in these United States or anywhere else. Under this definition, "Claims" includes, BUT IS NOT LIMITED TO, all claims, demands, causes of action, counterclaims, lawsuits, debts, accounts, covenants, agreements, actions, cross-actions, liabilities, obligations, losses, costs, expenses, remedies, and causes of action of any nature, whether in contract or in tort, or based upon conspiracy, fraud, concealment, misrepresentation, breach of fiduciary duty, breach of regulatory obligations, negligence, gross negligence, intentional acts, breach of duty or statutory or common law, and/or concerning the scope and/or existence of insurance coverage related to or arising out of the Incident, and/or arising under or by virtue of any judicial decision, statute or regulation, for past or present, known or unknown injuries, property or economic damage, and all other losses and damages of any kind, including BUT NOT LIMITED TO the following: all actual damages; all exemplary and punitive damages; all penalties of any kind, including WITHOUT LIMITATION any tax liabilities or penalties; damage to business reputation; lost profits or good will; consequential damages; damages ensuing from loss of credit; and, prejudgment and postjudgment interest, costs and attorney's fees. This definition further includes, BUT IS NOT LIMITED TO, all elements of damages, all remedies, and all claims, demands, and causes of action that are now recognized by law or that may be created or recognized in the future in any manner, including WITHOUT LIMITATION by statute, regulation, or judicial decision, including WITHOUT LIMITATION by virtue of the Texas Deceptive Trade Practices-Consumer Protection Act or Article 21.21 of the Texas Insurance Code, and/or by virtue of or arising under

any actual or implied covenant of common law good faith and fair dealing, and/or by virtue of or arising under any of the laws or regulations of the states of Texas, Louisiana or Oklahoma or under the laws of the United States of America or of any other state thereof, and/or arising under any judicial decision interpreting any such laws, which may presently exist or which maybe passed or issued in the future This definition DOES NOT INCLUDE actions brought by a Party to enforce the terms of this Settlement Agreement.

“Consideration” shall have the meaning set forth in Section VI, *infra*.

“Incident” shall mean all actions or omissions which were or could have been alleged by Plaintiffs (either as common claims on behalf of third party creditors, by assignment, or otherwise) relating in any way to AmCareco, AmCare-TX, AmCare-OK, AmCare-LA or AmCare Management. Incident includes without limitation all allegations made by Plaintiffs contained in the Lawsuits, including without limitation the allegations that Pearce breached common law, statutory and contractual duties owed to AmCareco, AmCare-TX, AmCare-OK, AmCare-LA, AmCare Management, AmCare-TX Creditors, AmCare-OK Creditors, AmCare-LA Creditors, and AmCare Management Creditors.

“Plaintiffs” shall mean the Texas Receiver, Oklahoma Receiver, and Louisiana Receiver, each individually, and collectively.

“Settling Defendants” shall mean Pearce as defined above.

II.

RECITALS

On or about April 30, 1999, AmCareco acquired three HMO health plans from Foundation Health Systems, Inc., predecessor to Health Net, Inc. (“Health Net”). Those three HMOs became AmCare-TX, AmCare-LA and AmCare-OK (the AmCare HMOs). M. Lee Pearce invested in AmCareco through Luxor Holdings II, LLC and the M. Lee Pearce

Foundation. Plaintiffs alleged, *inter alia*, that Pearce controlled the AmCare entities and participated in various wrongful acts as an alleged member of the "control group" and otherwise. Pearce denied these allegations.

The Plaintiffs have been appointed and authorized by courts supervising the receivership of the AmCare HMOs in the respective states where they operated. In Texas, the receivership proceedings for AmCare-TX and AmCare Management are in the 200th Judicial District Court of Travis County, Texas, Cause No. GV204523. In Oklahoma, the receivership proceedings for AmCare-OK are in the District Court for Oklahoma County, Oklahoma, Case No CJ-2003-5311. In Louisiana, the receivership proceedings for AmCare-LA are in the 19th Judicial District Court for the Parish of East Baton Rouge, Louisiana, Case No 499,737.

Plaintiffs variously filed the Texas and Louisiana Cases against several parties, including the Settling Defendants, asserting causes of action related to the Incident, seeking a variety of damages and other remedies. Plaintiffs and the Settling Defendants now intend to globally resolve all alleged liability arising out of or relating to the incident, and/or the Claims, for the Consideration. The Parties acknowledge and agree that an essential and integral condition for completion of the settlement described in this Agreement is that the Settling Defendants intend that they will be fully released from and/or indemnified pursuant to the terms of this Agreement.

III. **APPROVAL OF RECEIVERSHIP COURTS**

This Settlement Agreement is expressly conditioned on approval by the Texas, Oklahoma and Louisiana receivership courts, pursuant to the statutory and/or common law requirements for approval in each State. Even if signed by all Parties, this Agreement does not become final unless and until the orders approving this Agreement are entered by the three receivership courts.



The Parties agree that each Plaintiff, as appropriate in each of the respective receivership courts and/or the courts in which the Lawsuits are pending, will prepare and file all applications, petitions, pleadings and/or other documents, and issue any and all required notices and citations, necessary to seek approval of the Settlement Agreement in the manner required by the law of each State. Plaintiffs will exercise their best efforts to undertake in good faith all actions necessary to comply with each State's due process and other requirements to accomplish a valid approval of the Settlement Agreement. In so doing, the Parties will jointly represent that the terms of this Agreement constitute a fair and reasonable settlement of the Claims asserted by the Plaintiffs; that the funds received pursuant to this Agreement will be used by the Plaintiffs to pay legitimate claims of creditors of the AmCare HMOs, in accordance with procedures utilized in each of the receivership proceedings as well as for attorneys' fees and related expenses arising out of the pending lawsuits defined herein; that the settlement is intended to resolve all Claims against all Settling Defendants; and that the settlement terms, under all applicable circumstances, are in the best interests of the creditors and other persons affected by the settlement and the liquidation of the HMOs through the receivership proceedings.

In connection with the settlement approval procedures described herein, Plaintiffs will seek appropriate orders from each respective receivership court for approval of the Settlement Agreement and for the court actions described in Section IV and other provisions of this Agreement. Plaintiffs further agree to promptly notify the Settling Defendants or their counsel of the status of the settlement approval process and of all hearing dates or other significant developments of proceedings affecting the approval of this Agreement.

IV.
**RELEASE/INDEMNIFICATION FOR CLAIMS OF CREDITORS OF AMCARE HMOs
AND AMCARE MANAGEMENT**

Plaintiffs, through assignments, proofs of claim, and/or other operation of law, have asserted claims in the Texas and Louisiana Cases on behalf of the creditors of the AmCare HMOs and AmCare Management, including but not limited to hospitals and other health care providers and individual members of the AmCare HMOs' health plans. The Texas Receiver represents and warrants that it has authority to prosecute and settle the Claims the AmCare-TX Creditors or AmCare Management Creditors may have against the Settling Defendants. The Oklahoma Receiver represents and warrants that it has authority to prosecute and settle the Claims the AmCare-OK Creditors may have against the Settling Defendants. The Louisiana Receiver represents and warrants that it has authority to prosecute and settle the Claims the AmCare-LA Creditors may have against the Settling Defendants.

The Plaintiffs agree that, as part of the settlement approval process described in Section III, above, they will seek an order from each receivership court that the proposed Settlement Agreement is fair and equitable and in the best interests of the AmCare HMOs and their Common Creditors, and an order by each court that all Claims by Common Creditors of the AmCare HMOs or of AmCare Management against the Settling Defendants shall be deemed released, as a result of the courts' finding of the fairness of the settlement, and approval thereof.

V.
DISMISSAL OF / INDEMNIFICATION FOR CERTAIN THIRD PARTY CLAIMS

Plaintiffs, and each of them, agree to indemnify the Settling Defendants from and against any claim against any Settling Defendant by any person or entity on whose behalf Plaintiffs, or any of them, purported to bring the Louisiana case or the Texas case, that is based upon facts, matters, or circumstances alleged, or which could have been alleged, by Plaintiffs, or any of

them, in whole or in part, or derivative thereof, in the Louisiana case or the Texas case. Plaintiffs, and each of them, further agree to indemnify the Settling Defendants from and against any claims made by anyone acting or claiming by, through, for, or under the Plaintiffs, or any of them, that are based upon facts, matters, or circumstances alleged, or which could have been alleged, by Plaintiffs, or any of them, in whole or in part, or derivative thereof, in the Louisiana case or the Texas case.

VI.
CONSIDERATION

Consideration is as follows:

1. Assuming no objection is made to the settlement, within ten (10) days of the date on which the Texas, Louisiana and Oklahoma receivership courts enter orders as may be necessary to approve of this Agreement, a financial payment shall be made to Plaintiffs by delivering a bank check or checks totaling eight hundred thirty-three thousand dollars (\$833,000) payable to "McKernan Law Firm & Moore, Walters, et al. f/b/o the AmCare LA, OK, & TX Receiverships." Such bank check(s) will be delivered jointly to Edward T. Walters and Jerry McKernan;
2. The releases, covenants, and other provisions of this Agreement;
3. Plaintiffs' dismissal with prejudice of the Texas Case and Louisiana Case; and
4. Other good and valuable consideration by and on behalf of the Parties.

VII.
RELEASES AND COVENANT NOT TO SUE

A. Releases

Plaintiffs hereby release, acquit and forever discharge Settling Defendants from all Claims. Notwithstanding the foregoing, Plaintiffs specifically and expressly reserve all claims, rights and causes of action they may possess, collectively or individually, against all parties not specifically released by this Agreement.

B. Covenant Not to Sue

Plaintiffs promise and forever covenant not to bring or allow to be brought on their behalf against Settling Defendants any Action related in any way to the Incident and/or the Claims released herein. In the event that any person, firm, corporation, heir, successor, assign or other entity, claiming to act by, through, under or on behalf of any of the Plaintiffs brings an Action against Settling Defendants related in any way to the Claims released herein, then the Plaintiffs shall take all action reasonably necessary to obtain a prompt dismissal of such Action.

**VIII.
PENDING CASES AND MATTERS**

Within ten ("10") days of the date on which all Parties have executed this Agreement, Plaintiffs shall take all actions necessary to obtain orders from the Louisiana, Texas, and Oklahoma receivership courts approving this Settlement Agreement, as provided in Sections III and IV, above.

On the day payment is made to Plaintiffs pursuant to Section VI(1), *supra*, the Parties shall take the following action with respect to the Texas and Louisiana Cases:

The Parties shall file agreed motions for entry of final judgments in the Louisiana Case and the Texas Case, dismissing such cases with prejudice against the Settling Defendants and providing that the Plaintiffs take nothing on such claims.

**IX.
DENIAL OF LIABILITY**

The agreements and the transfer of consideration contained herein are intended to compromise doubtful and disputed claims, to avoid the expense, uncertainties and hazards of litigation, and to buy peace. It is expressly understood and agreed that no payments made or releases or other consideration given shall be construed as an admission of liability on the part of any Party to this Settlement Agreement, all such liability being expressly denied.

X.
ADDITIONAL TERMS

It is expressly understood and agreed that all of the terms hereof are contractual and not merely recitals. This Agreement shall be binding upon and inure to the benefit of each of the Parties hereto and their respective heirs, successors and assigns.

In the event the Plaintiffs negotiate indemnity, judgment reduction, settlement credit, or other non-monetary settlement terms with any other defendants in the Texas Case or the Louisiana Case that are more favorable than the terms of this Settlement Agreement, then Plaintiffs agree to offer those same benefits and protections to Pearce by executing a supplement to this Settlement Agreement specifying the additional benefits and protections afforded.

The Parties represent that each has the authority to enter into this Settlement Agreement; Plaintiffs understand that this is a complete and final release in full of any claims it has against Pearce, except as expressly provided; that each relies solely and wholly upon his/its own judgment, belief and knowledge of his/its rights and claims and relies upon his/its own judgment, belief and knowledge of the nature and extent of his/its rights in making this settlement; that in entering into this Settlement Agreement, each is doing so freely and voluntarily and upon the advice of his/its attorneys and has had the opportunity to retain additional counsel or experts of his/its own selection; that no representations, promises or statements made by any agent, attorney, or other representative of another Party that is not expressly provided for in this Agreement has influenced him/it in the making of this Settlement Agreement; and that each has read and fully understands this Agreement.

All Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

Plaintiffs acknowledge that the monetary payments made as part of the Consideration for this Agreement shall be made in accordance with reasonable instructions by Plaintiffs to the Settling Defendants, and that the funds received will be apportioned among the Plaintiffs without input or direction from or by the Settling Defendants. Each Plaintiff agrees to and hereby does release and relieve the Settling Defendants from all responsibility or liability with respect to the apportionment or allocation of the settlement funds among the Plaintiffs.

All Parties to this Agreement acknowledge that they, through their counsel, have participated in the drafting and preparation of this Agreement, and that no Party shall be entitled to the benefit of any rule or presumption in favor of or against any Party as the "drafter" of such Agreement should there be a challenge to this Agreement, based upon any alleged ambiguity contained herein.

This Agreement constitutes the entire and exclusive agreement between the Parties related to the matters addressed herein and any and all prior or contemporaneous agreements, understandings, promises, representations, warranties, and covenants, whether written or oral, or whether expressed, implied, or apparent, are hereby deemed merged into and made a part of this Agreement.

The signatories to this Agreement each warrant his/her respective authority to bind the Parties on whose behalf each has purported to sign as reflected below.

In the event that for any reason this Agreement is not consummated, this Agreement, its terms, and the negotiations leading up to it may not be used for any purpose in the Texas Case, Louisiana Case, or any other Action filed by Plaintiffs, or for any other purpose not mutually agreeable to the Parties.

In addition, Pearce does not agree to submit to the jurisdiction of the State of Texas or the State of Louisiana for any purpose, and this Settlement Agreement shall not be used against him as evidence that he has acquiesced or submitted to such jurisdiction. To the contrary, Pearce has taken the position that he is not subject to personal jurisdiction in either Texas or Louisiana and he continues to take that position. He agrees to this settlement as a means of bringing peace while reserving all rights to challenge personal jurisdiction in either state in this or any other action.

EFFECTIVE upon execution by all Parties. Further, this Agreement may be executed in multiple counterparts, by facsimile or original, each of which shall constitute an original for all purposes.

[THE REMAINDER OF THIS PAGE WAS DELIBERATELY LEFT BLANK]

Jean Johnson, Special Deputy Receiver for
AmCare Health Plans of Texas, Inc. and
AmCare Management, Inc.

By: 

Printed Name: Jean Johnson

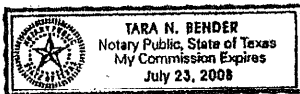
Title: Special Deputy Receiver

STATE OF TEXAS

COUNTY OF DALLAS

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This instrument was acknowledge before me on this 4th day of
May, 2005, by Jean Johnson, Special Deputy Receiver for AmCare
Health Plans of Texas, Inc. and AmCare Management, Inc.



Tara N. Bender
Notary Public, State of Texas

Kim Holland, Insurance Commissioner for
the State of Oklahoma, as Receiver for
AmCare Health Plans of Oklahoma, Inc.

By: [Signature]

Printed Name: KIM HOLLAND

Title: INSURANCE COMMISSIONER

THE STATE OF Oklahoma

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COUNTY OF Oklahoma

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This instrument was acknowledged before me on this 5th day of May, 2005,
by **Kim Holland, Insurance Commissioner for the State of Oklahoma, as Receiver for
AmCare Health Plans of Oklahoma, Inc.**

[Signature]

Notary Public, State of Oklahoma

Commission Expires: 10/14/08

Commission Number: 00014924

J. Robert Wooley, Insurance Commissioner
of the State of Louisiana, as Liquidator for
AmCare Health Plans of Louisiana, Inc.

By: [Signature]

Printed Name: Marlon Harrison

Title: Receiver AmCare LA.

THE STATE OF LOUISIANA

COUNTY OF EAST BATON ROUGE

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This instrument was acknowledged before me on this 4 day of MAY, 2005,
by ~~J. Robert Wooley~~, Insurance Commissioner of the State of Louisiana, as Liquidator for
AmCare Health Plans of Louisiana, Inc.

MARLON HARRISON,
RECEIVER FOR

[Signature]
Notary Public, State of LOUISIANA

SAL # 23011

J.E. CULLENS, JR.

THE STATE OF New York
COUNTY OF Westchester
This instrument was acknowledged before me on this 10TH day of May, 2005,
by M. Lee Pearce, M.D.

M. Lee Pearce
M. Lee Pearce, M.D.

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Linda Leland
Notary Public, State of New York

LINDA LELAND
Notary Public, State of New York
No. 60-4878607
Qualified in Westchester County
Commission Expires March 11, 2007